

**MINUTES
BUILDING, FIRE AND PLUMBING
CODES COMMITTEE**

Date: May 6, 2009
Location: SeaTac City Council Chambers

Building, Fire and Plumbing Codes Committee Members Present: John Cochran, Chair; Tom Kinsman, Vice Chair; Jon Napier, Dale Wentworth

Other Council Members Present: Angie Homola, Jerry Mueller

Committee Members Absent: Mel Mangum

Visitors Present: Bob Eugene, Gary Schenk, Kraig Stevenson, Brian Minnich, Jon Siu, Paul O'Connor, Frank Hertzog, Mike Wheeler, Rena Keith, William Littlejohn

Staff Present: Tim Nogler, Krista Braaksma, Joanne McCaughan

CALL TO ORDER

The meeting was called to order at 3:12 p.m. by John Cochran, BFP Committee Chair. John welcomed everyone. Introductions were made.

REVIEW AND APPROVE AGENDA

Tim Nogler said Jon Siu is present to talk about a local amendment submitted to the Council for preliminary review. He added Seattle's local amendment to the agenda after TAG reports. With that change, the agenda was approved as modified.

REPORTS OF TECHNICAL ADVISORY GROUPS

Building Code TAG

In the interest of brevity, John Cochran summarized Building Code TAG actions. TAG recommendations for existing amendments to the IBC were to retain 36, delete 18, modify 12, and refer three to other TAGs. For 2009 code change proposals, the TAG recommended approving 12 as submitted and 14 as modified, and disapproving 12. One proposal was withdrawn. Minority reports were filed for six proposals. John suggested focusing attention on those minority reports.

Angie Homola asked which Council members can and cannot vote on proposals. Tim reviewed BFP Committee members: John Cochran, Tom Kinsman, Jon Napier and Dale Wentworth. Mel Mangum is also a member but isn't present at today's meeting.

Tim called attention to the document entitled "Building Code TAG Minority Reports, May 6, 2009." He repeated that some code change proposals were recommended by the Building Code TAG to be disapproved. If the BFP Committee accepts the recommendation of the Building Code TAG and forwards that to the Council, those proposals are not entered into rulemaking and do not move forward to public hearing. Minority reports were proposed for a couple of disapproved code change proposals. People are in the audience today who wish to speak to those minority reports.

Log #09-177

Tim said this proposal was authored by John Cochran and Tom Kinsman filed the minority report. John Cochran said this proposal amends Section 403.5.2, the high rise section of the building code. It deals specifically with smokeproof exit enclosures. John's proposal strikes language and adds an exception as follows:

~~The smokeproof exit enclosure shall extend below 75 feet to the point of exit discharge.~~

Exception: Unless required by other sections of this code, portions of such stairways which extend to serve floors below the level of exit discharge need not comply with Section 909.20 and 1020.1.7 provided the portion of the stairway below is separated from the level of exit discharge with a 1 hour fire barrier.

John said the rationale for his proposal is that one can interpret the IBC to mean that smoke protection isn't needed below 75 feet. Since he doesn't believe that's the intent of the code, clarification is needed.

Below-grade stairways are not proposed to be smokeproof. The one-hour separation provides minimum separation. John said this proposal provides an option for designers and doesn't reduce the intent of the model code.

Tom agreed with John's synopsis of the minority report.

Angie spoke against "unless required by other sections of the code." She said it leaves the door open too wide, requiring plans examiners to search throughout the code. Angie prefers listing specifics. Tim said it was the TAG's concern that the original proposal lacked that language. Tom said listing specifics becomes impractical. John added that it reflects national strategy not to list specifics.

Tim said it's appropriate for the TAG to vote on minority reports. He said now is the time to change TAG recommendations. Krista clarified the Committee recommendation, not the TAG recommendation, would be changed.

Motion #1:

Jon Napier moved to approve Code Change Proposal #09-177 as modified . Tom Kinsman seconded the motion.

Angie asked for clarification. She asked if acceptance of a minority report turns disapproved proposals into "as modified" proposals.. Everyone agreed that's what would happen with approval of a minority report.

The question was called for. The motion passed. The Committee recommends AM for Code Change Proposal #09-177.

Log #09-239

John said this proposal deals with horizontal assemblies and smoke barriers. Approved as submitted by the TAG, this proposal deletes two new provisions in Sections 407.4.3 and 712.9. The minority report to this proposal recommends disapproval of #09-239.

Testimony of Frank Hertzog regarding Minority Report to #09-239

I'm Frank Hertzog with the Smoke Safety Council.

We filed a minority report primarily...well, on several reasons. I've provided them in writing. I'll cover them very briefly.

The first is it called the question on the ICC process itself. Having been involved with the ICC process for now over 10 years, it's highly unlikely that there'll be any significant omissions. There are some errors. But it's a pretty laborious process, if you've been involved. And so any language that gets into the code hardly gets there by accident. There are lots of deliberation and lots of support provided for any language that get in. And it's difficult to get language into the code.

This particular requirement began back actually at the cycle before. There's a requirement under 708.14.1 now in the IBC 2009 to exempt I-2s, I-3s and high-rise buildings from the sprinkler exception, Exception 4 of that section, which is the charging

language around elevator lobbies. So it begins the requirement to define where protection is needed and where it's not. And that was all approved about three years ago. That then extends itself into the special occupancies of I-2s and I-3s.

We're talking here about I-2s specifically, but it has a lot of similarities to I-3s, in that both occupancies are required to provide smoke compartmentation, or what's called a smoke compartment, as specifically defined as a six-sided box bounded on all sides by a smoke barrier which is fire-rated and rated for smoke. And the reason for this is these occupancies are required to provide defend-in-place strategies as well as horizontal evacuation for their occupants who are, for various reasons, limited in their abilities to travel about within that occupancy. So there's lots of consistency between the two.

There needs to be more consistency in defining what happens when you penetrate the horizontal assemblies. And that was the generation of the language that we're discussing in this particular code section. When you penetrate a horizontal assembly, it was felt there was a need to provide further clarity for the code officials to understand what protection is required when you go vertical through that smoke compartment. There was lots of understanding about the horizontal travel, but not that much about the vertical travel. And, of course, typically when you have language that says penetrations have to be protected in other places, then you've got a large hole like an elevator shaft that calls for the question on what protection should or should not be provided there.

If this is in fact implemented, when you say I-2, you're not talking about just hospitals either. You're talking about nursing homes, mental hospitals, detoxification facilities. So it brushes through many more occupancies than just hospitals alone.

And last of all, the definition of a smoke compartment as a six-sided box is identical and consistent with the other regulation that hospitals look to. And that's NFPA 101, life/safety code. The definition of smoke compartmentation in both regulations is exactly the same.

So it's pretty clear that the intent is to provide a safe compartment wherever you are on all six sides, not just four sides. And this change would have the effect of taking away some clarifying guidance for building officials in understanding how to implement that protection.

(Attached to these minutes are written comments and a slide presented by Frank Hertzog.)

Angie asked for clarification. Frank said the original code proposal deletes defining requirements for how to protect vertical passageways in buildings. If the TAG's recommendation is accepted as is, the proposal deletes clarifying language that specifically helps building officials understand what they should or shouldn't do. On the other hand, if the TAG accepts the minority report to #09-239, the existing code language stays as it currently is.

Tim said if the Committee and Council accept the TAG recommendation to approve this proposal as submitted, it moves to rulemaking and public hearing. He confirmed that final Council action on this proposal won't occur until after public testimony is received. However if the Committee approves the minority report, #09-239 is disapproved and doesn't move forward.

Tom spoke in support of moving #09-239 to public hearing.

Dale Wentworth asked if Frank Hertzog's testimony was presented to the Building Code TAG before it recommended moving #09-239 forward as is. John answered no.

Tom questioned whether the 2009 IBC includes a six-sided box definition. Frank said it's in the definition section in Chapter 7. He said both NFPA and the IBC since the 2000 edition have used exactly the same definition. He noted that the argument has been made that having it in the definition section isn't sufficient for code officials to make judgments about what needs to be done in actual construction. Thus clarifying direction was later added to support the definition.

Angie asked what the driving force was for the TAG's recommendation to adopt as submitted. Tim read from statements made by John Williams, Department of Health, who is the proponent of #09-239. The listed justification was to correct an error or omission. There was no statement about how the proposal corrects a life/safety threat. It was stated that the new sections which #09-239 deletes slow evacuation and add cost, complicating the design process.

Testimony of Mike Wheeler, SmokeGuard Corporation

I've got a handout here. It's in addition to our minority report.

Just a couple of points that were made by the proponent about smoke migration: The whole purpose of an elevator lobby in the code is to contain smoke from transmitting vertically in a building, to separate the elevator shaft from the rest of the building. That requirement has been in the code for a number of years, over 25 years. So smoke does transmit vertically in buildings. It's regardless of what type of building we're in. Smoke will go where it wants to go.

There was a fire, as I've noted that in the minority report that you should have a copy of. Mt. Sinai Hospital, in January of this year, had a fire on the second floor. Smoke migrated vertically up to the ninth floor, and 600 people had to be evacuated out of the hospital. I don't believe the proponent's correct in saying smoke doesn't migrate. It does migrate, and that's the whole purpose of this elevator lobby.

I guess, it seems to me that we should have the same level of safety for our patients at hospitals as we do for prisoners in a confined facility. And I think by taking that out of the code, we're diminishing the life/safety in health care facilities.

(Attached to these minutes are written comments by Mike Wheeler.)

Tim added that others commented at the TAG meeting to retain the requirements of Sections 407.4.3 and 712.9.

Jon Napier agreed with Tom that Proposal #09-239 should receive public testimony.

Motion #2:

Jon Napier moved that the Building, Fire and Plumbing Codes Committee accept the recommendation of the Building Code TAG to approve Code Change Proposal #09-239 as submitted and forward it to the Council with an AS recommendation. Tom Kinsman seconded the motion. The motion was unanimously adopted.

Log #09-183

John said this minority report was submitted by the Department of Health, dealing with an elevator lobby exception. Tim said it establishes an exception to the requirement of Section 708.14, relating to elevator lobbies. John said the minority report asks to eliminate the new 2009 language. Jon said the letter from DOH says they're not asking to eliminate the new 2009 language. Rather for facilities with both active sprinklers and smoke compartments, elevator lobbies aren't required. The TAG recommendation was to disapprove Code Change Proposal #09-183.

Motion #3:

Jon Napier moved that the Building, Fire and Plumbing Codes Committee recommend Council adoption of Code Change Proposal #09-183 as submitted, as recommended by the Building Code TAG. Dale Wentworth seconded the motion. The motion was unanimously adopted.

Log #09-180

John withdrew his minority report. Thus Code Change Proposal #09-180 dies at the Committee level.

Log #09-187

Tim said people are present today who would like to speak about this proposal, authored by William Littlejohn to amend door closing provisions in Section 715.4.7. He said this proposal relates to boarding homes and assisted living occupancies.

John said the minority report adds a third exception to Section 715.4.7. Tim agreed, saying door closures are not required in R-2 licensed boarding homes that also meet all requirements of the IBC and IFC for I-2 licensed occupancies.

Testimony of Rena Keith, Director, Sherwood Assisted Living, Sequim

Our facility was built as a nursing home under nursing home codes, with sprinkler systems, smoke detectors, four foot doors. It was built as a nursing home and converted to an assisted living [facility]. In the nursing home regulations, and I don't know the

codes, but they are not required to have door closures because of the sprinkler system and the requirements that are set for nursing homes. So those residents don't have to have their door closed all the time or have automatic closures on them because of the staffing.

Our staffing is as high as or higher than a nursing home's. And we meet those fire requirements. But our residents still have to have their doors closed all the time. And the rooms are small. They're filled. They're [the residents] frail. A lot of times, if they have an alarm go off in their room; the staff can't hear them because the doors are closed. And so they kind of feel like in prison.

If they put the automatic closures on them, residents who are in walkers or wheelchairs aren't able to open them. If the smoke alarms go off, they automatically close. It can be a danger to the residents.

What we're asking is that if our building and our staffing meet the same coding as a nursing home, that they also be able to have their doors open in an assisted living boarding home.

Tom asked what the driver is to the change from annual inspections determining for many years that doors without closures were sufficient to now requiring closures.

William Littlejohn, the author of #09-187, noted that doors do have closures. Doors close using the same principle as a spring-loaded hinge. William said the compromise made with the previous fire inspector was that weighted, stuffed animals could be used to hold doors partially open in place of wedges that are removed by someone physically bending over to remove them. Regarding the age of the building, William said the original nursing home was built in 1974. Over the last 20 or so years, the state has attempted to limit nursing home beds by moving nursing home residents to assisted living. There have been two progressions of assisted living, either by downgrading nursing homes to assisted living or by adding care to retirement homes. Sherwood Assisted Living is a "heavier care" model. Most of their residents would have been in a nursing home 20 years ago. Tom asked why the fire inspector ruled door handles could no longer be used. William answered it was a new inspector.

Jon Napier said it appears the minority report was filed because a new fire marshal ruled the previous fire marshal had made an arbitrary ruling that had no basis in code. He said the city is liable if it doesn't enforce the code as written.

William said he wants to emphasize that cost isn't the deciding factor. All other hallway doors except resident rooms have door holders. The problem is that when released, door holders close quickly. It's a safety hazard to frail residents. Using weighted, stuffed animals gives residents the flexibility of partially opening doors. William said residents' rooms are small, and the hallway is an extension of rooms. Partially opening their doors gives residents a better quality of life, relieving boredom and isolation. Rena added that it also gives staff an opportunity to check on residents as they pass by. Shut doors prevent staff from hearing motion alarms that some residents have who are at high risk for falling. Residents beg not to have their doors shut.

Rena said the question being asked is, if the building is in compliance, the same as a nursing home building is, and if staff is the same as in a nursing home, why can't resident doors be open the same as they are in a nursing home.

Jon said he's not sure regulation should be at the state level. He said it sounds like the minority report comes from a disagreement Sherwood Assisted Living has with the Sequim Fire Marshal. William said the code change is proposed by the State Fire Marshal. Rena agreed.

Tom and Angie suggested that reference be made to group I-2 occupancies rather than skilled nursing facilities.

William said for state-licensed facilities, local building officials abdicate authority. Jon suggested he check the WACs. He said usually the local building official is in charge of the classification of buildings. If the local building officials allows resident rooms without door holders, that's the way it is in that jurisdiction. Jon said it involves licensing, not building construction.

William said DSHS performs an annual inspection of Sherwood Assisted Living. Then the fire marshal inspects and they combine their reports. He said he doesn't think DSHS will back off. Rena added that if DSHS doesn't certify the inspection, no building official will override it. Jon insisted that final control of building use is at the local level. He said the state doesn't inspect until the use of the building is determined by the local building official. Jon suggested Sherwood Assisted Living say they're an I-2. If the local building official accepts that boarding home classification, the door closure issue may disappear.

Motion #4:

Tom Kinsman moved that the Building, Fire and Plumbing Codes Committee recommend Council adoption of Log #09-187 as modified, moving it to rulemaking and public hearing. Jon Napier seconded the motion.

Dale suggested changing sprinkler heads to quick-response heads might eliminate the door closure issue. Tom said R-2 boarding homes, apartments and condos are the only occupancies that really need rated corridors with self-closing doors.

Rena said Sherwood Assisted Living is currently an R-2 boarding home. Jon asked what the certificate of occupancy for Sherwood Assisted Living says, I-2 or R-2. Assuming it says I-2 because it used to be a nursing home, Jon suggested that Rena request that the local building official reevaluate the building and change the certificate of occupancy to R-2. The result will be that future evaluations of the building won't be conducted against the I-2 certificate.

The question was called for. The motion was unanimously adopted.

Tim said other minority reports are on code change proposals that the Building Code TAG recommends moving forward to public hearing. So public testimony will be offered on them this fall. Included are #09-242, dealing with seismic requirements, and #09-188, dealing with accessible alterations.

Tim commented on the economic impact of Proposal #09-188. He said the intent of that proposal was to be consistent with requirements of the previous code. While some may view it as a cost increase, others view it as maintaining current requirements.

Jon asked John if proposal #09-203, fire command center separation, was supposed to be review by the Fire Code TAG. Tim said the comment in the matrix about that proposal is that it's a fire code rather than a building code issue. Jon said the Fire Code TAG didn't review it. Tom said it deals with two-hour versus one-hour separation. In this proposal, Lee Kranz proposes a two-hour separation.

Motion 5:

Jon Napier moved the Building, Fire and Plumbing Codes Committee recommend Council adoption of Code Change Proposal #09-203 as submitted, so it moves to rulemaking and public hearing. Dale Wentworth seconded the motion, agreeing that public testimony should be received on this proposal. The motion was approved, 2 aye to 1 nay.

Motion #6:

Jon Napier moved the Building, Fire and Plumbing Codes Committee recommend Council adoption of code change proposals to the 2009 International Building Code as recommended by the Building Code TAG, with above-noted modifications by the Building, Fire and Plumbing Codes Committee. Tom Kinsman seconded the motion. The motion was unanimously adopted.

Tim asked for a similar motion to recommend adoption of existing building code amendments, with the exception of International Existing Building Code amendments, since they weren't modified in the new edition of the code. John Cochran recapped that retains 36 amendments, deletes 18 amendments and modifies 12. Tim agreed, saying a number of the modifications overlap with proposals just moved forward.

Motion #7:

Tom Kinsman moved the Building, Fire and Plumbing Codes Committee recommend Council adoption of existing building code amendments, with the

exception of International Existing Building Code amendments. Jon Napier seconded the motion. The motion was unanimously adopted.

Jon deferred action on fire code change proposals. He said the Fire Code TAG hasn't yet completed its review of the 2009 code. Tim said Tien Peng and Ray Allshouse have been co-chairing the Residential Code TAG. Since neither are present, that TAG report will also be deferred.

OTHER BUSINESS

Local Amendment, City of Seattle

Tim said this is a local amendment to the International Existing Building Code, which the Council has been discussing for statewide adoption. It's also a request for preliminary review. Basically this local amendment is a "heads up" to the Council, because the Council is addressing existing buildings in Chapter 34 of the building code and there is an existing buildings chapter in the fire code.

Jon Siu, City of Seattle

Jon said the City of Seattle has basically written its own Chapter 34 for many years. The reason for this local amendment is that Chapter 34 used to be exempt in state law from State Building Code Council review. That has now changed to requiring Council review when it affects construction of one-to-four dwelling units.

The city is asking for preliminary review to provide assurance that once Seattle moves forward with its local amendment process, Council review will not negate Seattle's efforts by disapproving its amendments.

Jon called attention to page 2 of the LA-09-01 document. It compares the 2006 International Building Code (IBC) with the 2006 Seattle Building Code (SBC). He said most of the SBC doesn't affect one-to-four-unit small residential buildings. Much of it deals with seismic upgrades to unreinforced masonry buildings. Seismic upgrades are required in Seattle when "substantial alterations" are encountered. They are generally encountered in larger residential and commercial buildings. However, some cases do affect small residential buildings.

One difference between the 2006 editions of the IBC and SBC deals with existing buildings or structures. An exception to the SBC allows new dwelling units in Seattle to not have sprinklers under limited conditions. Lower ceiling heights are also allowed in the SBC, 6'8" in basements, with 6'4" under ducts, beams, etc.

Jon said a big difference is how these two codes handle damaged buildings. He said Seattle tried to establish predictability in dealing with buildings damaged primarily by

earthquakes. A lengthy, complex set of regulations detail what has to be done to repair buildings and when upgrades are required, based on the cost of the repair versus the value of the building. Requirements revolve around established thresholds. In addition to earthquakes, it also covers such things as automobiles running into buildings.

The SBC requires upgrades when unreinforced masonry chimneys are altered, or the building undergoes a “substantial alteration.” This requirement applies to single-family and small residential buildings. The upgrade can be accomplished by tearing the chimney down and rebuilding it, or by bracing the chimney to the roof and the walls and floors. Various rules describe the procedures.

The other major area potentially affecting small residences involves “substantial alterations and repairs.” The SBC has several triggers for when upgrades are required. While generally these triggers apply to larger buildings, single-family residential buildings may have to be tied to their foundations and cripple walls may have to be braced.

Jon Napier asked if the comparison table on page 2 is a direct, straight across comparison. Jon Siu answered no. Seattle changed the numbering of sections when rewriting the code.

Angie asked what Jon Siu is asking. Tim said Washington has a state building code as a minimum, which cities and counties can amend. If those local amendments affect one-to-four-unit residential buildings that are under three stories or under 5,000 square feet, local jurisdictions must get Council approval of those amendments before they can enact them. As Jon mentioned, Chapter 34 was previously an exception, not requiring Council approval. Structural chapters were also exempted under the old rule. That rule has since been amended to limit exemption to department operational procedures, such as setting permits, setting inspections and other administrative tasks. The only local amendments now requiring state approval are those affecting construction.

Tom also asked for clarification. Jon said Seattle wants confirmation that it can move forward with its local amendment process. Tom then asked if Jon wants the Council to give Seattle blanket approval to do whatever it wants. Tom said he wants specific requests. Angie agreed.

Jon Siu said that Seattle has amended the International Residential Code to correlate with the SBC because the original IRC doesn't deal with existing buildings at all. Tom asked if the Council has reviewed those local amendments. Jon said he doesn't think so. He said since they're identical to this request, Seattle decided to just do one.

Tim said a specific example is chimney repair. Seattle has a policy for chimney repair compliance. It applies to single-family residences. The question for the Council, according to Tim, is whether that's within the scope of this review. Angie said such specific information wasn't furnished by the City of Seattle.

Tom questioned why there's debate about whether or not Council approval is required. Tim said Council policy in the past exempted the existing buildings chapter, considering it an administrative, department operational procedure. That exemption has since been amended by the Council, deleting reference to the chapters and retaining "department operational procedure." The chapters had become obsolete anyway because it happened around the same time as the state switched from the Uniform Building Code to the International Building Code.

Jon Siu offered to provide more specific information if the Council wishes it. He said he doesn't believe Seattle will substantially amend Chapter 34 this code cycle.

Jon said there is a WAC provision allowing local jurisdictions to request preliminary review. Tim repeated that this is a preliminary review, that's provided for under Council rules for applicants of state or local amendments to discuss future actions prior to going through the formal process. The formal process requires the local jurisdiction to go through an adoption process and includes, as part of the ordinance, findings of fact that outline rationale.

Tom noted that by following the formal process, the Council wouldn't hear this until after the Seattle City Council approved it in September 2010. Jon Siu agreed. He said the reason preliminary review is being requested is because it's a lengthy process to adopt an ordinance at the local level, have the Council disapprove it, have to amend it at the local level and hold new hearings, have the Seattle City Council adopt it again, then resubmit it to the Council.

Jon Napier asked what Seattle's timetable is. Jon Siu said Seattle has to draft the SBC version of Chapter 34. That goes to the Construction Code Advisory Board, which he expects to happen by April 2010, public hearing and the Seattle City Council.

Tom suggested that it'll be difficult for the Council to approve such a process. Angie and John both agreed. Angie said it's difficult to approve without seeing what the amendment actually means and how it compares to the new codes.

Tim said it appears the answer to the first question is that the local amendment is within the scope. He said the City of Seattle submitted more detail, which he recommends distributing to the Committee at the June meeting. Members agreed they would like more information.

ADJOURNMENT

Lacking further business, John Cochran adjourned the meeting at 4:50 p.m.

